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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/526,416 | 03/02/2005 | Matthew M Terry | 3053.136.US | 3094 |
| NOVAK DRUCE DELUCA + QUIGG LLP 300 NEW JERSEY AVENUE NW FIFTH FLOOR WASHINGTON, DC 20001 | | | EXAMINER | |
| | | | JOHNSON, STEPHEN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3641 | |
| | | | | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 07/07/2010 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) | | | |
|--|---|---|--|--|--|
| | 10/526,416 | TERRY ET AL. | | | |
| Office Action Summary | Examiner | Art Unit | | | |
| | Stephen M. Johnson | 3641 | | | |
| The MAILING DATE of this communication app Period for Reply | ears on the cover sheet with the c | orrespondence address | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b) | ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI | lely filed the mailing date of this communication. (35 U.S.C. § 133). | | | |
| Status | | | | | |
| Responsive to communication(s) filed on 11 Ma This action is FINAL . 2b) ☐ This Since this application is in condition for allowant closed in accordance with the practice under E | action is non-final. ace except for formal matters, pro | | | | |
| Disposition of Claims | | | | | |
| 4) ☐ Claim(s) 2-25 and 27-38 is/are pending in the a 4a) Of the above claim(s) is/are withdraw 5) ☐ Claim(s) 2-25 and 27-38 is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or | vn from consideration. | | | | |
| Application Papers | | | | | |
| 9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the construction of the construct | epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj | e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d). | | | |
| Priority under 35 U.S.C. § 119 | | | | | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. | | | | | |
| Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) | 4) | ite | | | |
| Paper No(s)/Mail Date 6) U Other: | | | | | |

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- 1. This Office action is in response to the amendment as filed on 5/11/2010 and BPAI Decision of 3/11/2010. Claims 2-25 and 27-38 are active in this application and an action on these claims follows. Claims 1 and 26 have been cancelled.
- 2. This application is in condition for allowance except for the following formal matters:
 a) The amendment filed 10/13/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In the insertion on page 6, lines 18-14, addition of the phrase "or any combination thereof" is unsupported by the application as originally filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

b) Applicant's arguments are addressed as follows. It is argued that reference to the phrase "combinations and sub-combinations as discussed through out this document" provides support for this language. In response, this is not the same as "any combination thereof". In fact the terminology "any combination thereof" would include the terminology combinations and sub-combinations as disclosed throughout as well as other potential combinations not disclosed within the specificaiton as originally filed. With regard to the issue that addition of the phrase "one or a plurality of the listed materials/layers" somehow makes the addition of this added descriptive language appropriate, this is not understood and not convincing.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

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3. Claims 2-25 and 27-38 are allowed.

4. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877

and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be

reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/ Primary Examiner, Art Unit 3641

SMJ July 2, 2010